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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.4366 of 2015

and

M.P. (MD) No.1 of 2015

R.Hepsi

... Petitioner

vs.

1.The Divisional Personal Officer
Southern Railway, Divisional Office
Personal Branch, Madurai

2.The District Collector
Sivagangai District, Sivagangai

3.The Thasildhar
Manamadurai Taluk
Sivagangai District

4.Papathi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus directing the respondents 2 to 3 to conduct an enquiry in respect of the forged legal heirship certificate in Mu.Mu.No.6563 of 2012 dated 26.10.2012 issued by the 3rd respondent and pass orders within the time frame fixed by this Court and intimate the same to the first respondent and a consequential direction directing the 1st respondent and a consequential direction directing the 1st respondent to pass suitable orders in respect of the family pension of the petitioner's father Late.Mr.Rajendran and till such time directing the 1st respondent to disburse 50% of the family pension of petitioner's father Mr.Rajenderan to the petitioner.

For Petitioner : Mr.Lakshmi Gopinathan
M/s.Polax Legal Solutions

For Respondents : Mr.S.Manohar for R1

Mr.D.Muruganandham
Additional Government Pleader for R2 & R3

**ORDER**

The relief sought for in the present writ petition is for a direction to the respondents 2 to 3 to conduct an enquiry in respect of the forged legal heirship certificate, dated 26.10.2012, issued in Mu.Mu.No.6563 of 2012, by the third respondent and to pass orders within the time stipulated by this Court and thereafter, intimate the same to the first respondent and consequently, to direct the first respondent to pass suitable orders in respect of the family pension of the writ petitioner's father Late.Rajendran and to disburse 50% of the family pension to the writ petitioner.

2. The fact remains that the deceased employee Late.Rajendran married two wives. The second wife passed away. The first wife of the deceased employee Smt.Pappathi / fourth respondent is alive. The writ petitioner is the married daughter of the deceased employee.

3. As per the Central Government Pension Rules, the family pension is to be sanctioned in favour of the spouse of the deceased employee at the first instance. If there is no spouse for the deceased employee, then only, the grant of pension is to be considered with reference to the other legal heirs as per the rules in force and in the order of preference. This being the Pension Rules in force, the family pension cannot be granted in favour of any other legal heirs, other than the spouse, who is none other than the first wife of the deceased employee and entitled to get family pension in accordance with the Pension Rules. Thus, it is made clear that the fourth respondent, who is the first wife of the deceased employee, is entitled to get the family pension and the writ petitioner cannot claim family pension during the lifetime of the fourth respondent, who is the first wife of the deceased employee.

4. Accordingly, the writ petition is devoid of merits and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

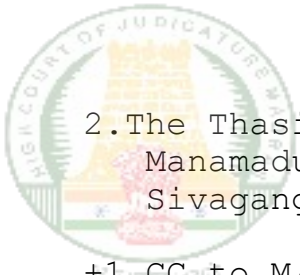
/ True Copy /

Sub Assistant Registrar (CS-)

Krk

To:

1. The District Collector,
<https://hcservices.ecourts.gov.in/hcservices/>
Sivagangai District, Sivagangai.



2.The Thasildhar,
Manamadurai Taluk,
Sivagangai District.

+1 CC to M/s.S.VISVALINGAM, Advocate
(SR-74492[F] dated 10/07/2019)

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+1 CC to M/s.SPL GP (SR-74505[F] dated 10/07/2019)

+1 CC to M/s.S.MANO HAR, Advocate (SR-74826[F] dated 11/07/2019)

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and

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